

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GREGORY MARTIN,

Plaintiff,

- against -

NANCY A. BERRYHILL, *Acting*  
*Commissioner of Social Security,*

Defendant.  
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17-CV-8640 (VSB) (SN)

**ORDER**

Appearances:

Charles E Binder  
Law Office of Charles E. Binder and Harry, LLP  
New York, New York  
*Counsel for Plaintiff*

John E. Gura, Jr.  
U.S. Attorney's Office for the Southern District of New York  
New York, New York  
*Counsel for Defendant*

VERNON S. BRODERICK, United States District Judge:

Plaintiff Gregory Martin brings this action seeking judicial review of the final decision of the Acting Commissioner of Social Security ("Defendant"), denying Plaintiff Social Security disability insurance benefits under Title II of the Social Security Act on the ground that Plaintiff's impairments did not constitute a disability for purposes of the Act. I referred the case to Magistrate Judge Sarah Netburn for a report and recommendation on the motion. (Doc. 8.)

On May 25, 2018, Plaintiff filed a motion for a judgment on the pleadings and a memorandum of law in support of that motion. (Docs. 12–13.) On November 2, 2018, Defendant filed a cross-motion for judgment on the pleadings and a memorandum of law in support of the motion and in opposition to Plaintiff's motion. (Docs. 22–23.) Plaintiff filed a reply memorandum

on November 21, 2018. (Doc. 24.) Before me is Judge Netburn's February 20, 2019 Report and Recommendation, (Doc. 26), which recommends that Plaintiff's motion be granted in part and that Defendant's motion be denied.

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).


Here, although the Report provided that the "parties shall have fourteen days from the service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure," (Doc. 26, at 16), neither party has filed an objection, or sought an extension to file an objection. I have reviewed Judge Netburn's thorough and well-reasoned Report and Recommendation for clear error and, after careful review, find none. I therefore adopt the Report and Recommendation in its entirety.

Defendant's motion is GRANTED, and this case is remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings before a different administrative law judge, consistent with the Report and Recommendation.

The Clerk's Office is respectfully directed to terminate the open motions at Documents 12 and 22, and to enter judgment remanding this case to the Commissioner of Social Security.

SO ORDERED.

Dated: April 19, 2019  
New York, New York

  
Vernon S. Broderick  
United States District Judge